



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,090	10/28/2003	Makoto Minari	B588-037	5063
26272 7590 09/26/2007 COWAN LIEBOWITZ & LATMAN P.C. JOHN J TORRENTE 1133 AVE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER HU, JINSONG	
			ART UNIT 2154	PAPER NUMBER
			MAIL DATE 09/26/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/695,090	<b>Applicant(s)</b> MINARI, MAKOTO	
	<b>Examiner</b> Jinsong Hu	<b>Art Unit</b> 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                           |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/28/03, 3/5/04</u> . | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION**

1. Claims 1-13 are presented for examination.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, i.e., program is non-statutory subject matter.

Correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Earl et al. (US 6,966,058).

Art Unit: 2154

6. As per claims 1 and 3, Earl teaches the invention as claimed including a terminal apparatus in a system which is formed by a management apparatus and a plurality of terminal apparatuses connected to a network [col. 3, lines 22-56], comprising:

reception means for receiving management information which is transmitted from another terminal apparatus or the management apparatus [116 a-b, Fig. 1], and contains instructions used to manage the plurality of terminal apparatuses [ col. 4, lines 4-13; col. 7, lines 31-65];

processing means for executing a process according to a corresponding instruction with reference to the received management information [col. 3, lines 22-56; col. 7, line 66 – col. 8, line 22];

search means for searching the plurality of terminal apparatuses for a terminal apparatus which has not received the management information yet [col. 8, line 23 - col. 9, line 5; col. 10, lines 7-19]; and

transfer means for transferring the management information to the terminal apparatus detected by said search means [col. 5, lines 5-12; col. 11, lines 7-23].

7. As per claim 2, Earl teaches the processing means executes at least one of an installation process of a program, a delete process of a program which is held in advance, a launch process of a program which is held in advance or is installed, an execution quit process of a running program, an environment setup process of a program which is held in advance, and a process for acquiring status of a program which is held in advance and sending the acquired status to the management

Art Unit: 2154

apparatus, in accordance with the corresponding instruction contained in the management information [col. 7, lines 59-65; col. 8, lines 41-52].

8. As per claim 4, Earl teaches the management information contains an installation instruction of a program to the terminal apparatus, and an address of an external apparatus that holds the program on the network, and said processing means specifies the external apparatus with reference to the address, and downloads the corresponding program from the specified external apparatus [col. 7, lines 17-30].

9. As per claims 5 and 6, Earl teaches the invention as claimed including a management system which is formed by a plurality of terminal apparatuses connected to a network, and a management apparatus which can make data communications with the plurality of terminal apparatuses and manages the plurality of terminal apparatuses, said management apparatus comprising:

input means for inputting instructions for one of the plurality of terminal apparatuses, generation means for generating management information that contains the input instructions on the basis of the input instructions [col. 7, lines 31-65];

specifying means for specifying one of the plurality of terminal apparatuses as a transmission destination of the management information [col. 3, lines 22-56; col. 7, line 66 – col. 8, line 22]; and

transmission means for transmitting the management information to the specified one terminal apparatus [col. 5, lines 5-11; col. 11, lines 7-22], and

each terminal apparatus comprising:

reception means for receiving management information which is transmitted from another terminal apparatus or the management apparatus [116 a-b, Fig. 1], and contains instructions used to manage the plurality of terminal apparatuses [ col. 4, lines 4-13; col. 7, lines 31-65];

processing means for executing a process according to a corresponding instruction with reference to the received management information [col. 3, lines 22-56; col. 7, line 66 – col. 8, line 22];

search means for searching the plurality of terminal apparatuses for a terminal apparatus which has not received the management information yet [col. 8, line 23 – col. 9, line 5; col. 10, lines 7-19]; and

transfer means for transferring the management information to the terminal apparatus detected by said search means [col. 5, lines 5-12; col. 11, lines 7-23].

10. As per claims 7-9, since they are method, computer product and device claims of claim 1, they are rejected for the same basis as claim 1 above.

11. As per claims 10-13, since they teach the same limitations as claims 1-4 from different prospectors [i.e., sender and receiver], they are rejected for the same basis as claims 1-4 above.

**Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Deshpanda et al. US 20030221190, Marsh et al. US 20020073304, Liu US 20020065939 and Fujiwara US 6,408,434 disclose application upgrade and install system.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Application/Control Number: 10/695,090

Page 7

Art Unit: 2154

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Jinsong Hu', with a horizontal line drawn underneath it.

Jinsong Hu

September 21, 2007